

REMARKS

Claims 1-22 and 38-62, as amended, remain in the present application for the Examiner's review and consideration. Claims 23-37 were previously withdrawn from consideration with the present application, and method claims 63-67 directed to a non-elected embodiment were previously canceled. As these amendments do not introduce any new matter into the application, their entry at this time is warranted.

Applicant greatly appreciates the courtesy extended by the Examiner to Applicant and his attorney during the interview of June 14, 2006.

Claims 1, 9, 11, 20, 38-39, 41-42, 51-54, 58-59 and 62 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,803,334 to Mitzutani et al. ("Mitzutani") for the reasons given in Paragraph 2 of the Office Action. It was asserted that Mitzutani discloses all of the recitations of the claims. The Examiner took the position that the discrete lines of adhesives as "a discontinuous layer of adhesive." (Office Action, para. 14) Independent claims 1 and 62 have been amended to recite that the adhesive layer is a contiguous layer. Applicant notes that a contiguous adhesive layer includes adhesive layers that include breaks or openings (for example only, specification at page 22 lines 5-25 and breaks designated as reference number 62 shown in FIG. 14 and discussed on page 32, lines 17-20), so long as the elements or portions of the adhesive layer are connected to each other unlike the collection of discrete lines 13a disclosed in Mitzutani. Hence, independent claims 1 and 62 are distinguishable over Mitzutani.

Claims 9, 11, 20 38-39, 41-42, 51-54 and 58-59 all depend either directly or indirectly from claim 1 and contain additional recitations that further define the present invention over Mitzutani. Hence, these claims are presently patentable due to their dependency. Applicant reserves the right to address the related rejections stated in the Office Action including, but not limited to, the rationale for combining the cited references and any alleged inherent properties not specifically disclosed in the cited art, should that becomes necessary. Therefore, this rejection has been overcome and should be withdrawn.

Claims 1, 7, 9, 11, 14, 42-44, 46, 51, 52 and 54 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,389,442 to Pickens, Jr. et al. ("Pickens") for the reasons given in Paragraph 3 of the Office Action. It was asserted that Pickens teaches a fabric for a wall covering which is a needled nonwoven batt of staple fibers having rows of clustered loops 34 of fibers projecting outwardly in a transverse direction to the plane of the cloth or film 22 (col. 2, lines

61-68). The needled batt may have a backing 40 added on the back surface 20 of the batt 16 by way of latex or other adhesive (col. 3, lines 50-55). The finished product has the fibrous outer layer and a layer of adhesive with depressed areas (non-needed areas) and elevated areas (needed).

Independent claim 1 is amended above to recite that “after the depressed and elevated areas are formed the fibrous outer layer and the adhesive layer are non-planar and follow substantially the same contour.” There is no teaching or disclosure in the Pickens reference of non-planar fibrous outer layer and adhesive layer following the same contour, as currently recited in amended claim 1. Hence, claim 1 is presently patentable over Pickens

Claims 7, 9, 11, 14, 42-44, 46, 51, 52 and 54 all depend either directly or indirectly from claim 1 and contain additional recitations that further define the present invention over Pickens. Hence, these claims are presently patentable due to their dependency. Applicant reserves the right to address the related rejections stated in the Office Action including, but not limited to, the rationale for combining the cited references and any alleged inherent properties not specifically disclosed in the cited art, should that becomes necessary. Therefore, this rejection has been overcome and should be withdrawn.

Claims 1, 6-9, 11 and 42 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. patent no. 5,567,257 to Higgins et al. (“Higgins”) for the reasons given in Paragraph 4 of the Office Action. It was asserted that Higgins teaches a process for forming a bonded pile fabric using low levels of adhesive and that Figs. 8 and 9 illustrate one embodiment with pile fabric 10, adhesive layer 40 and open weave layer 17 (col. 8, lines 28-32).

Independent claim 1 has been further amended to recite that “the fibrous outer layer is formed from a fabric that is initially arranged substantially parallel to the contiguous adhesive layer.” Pile carpets such as those described in Higgins do not have a starting fabric that is initially arranged parallel to the adhesive layer. To the contrary, pile carpets are made by weaving yarns into and out of a backing layer.

Therefore, Higgins does not anticipate claim 1. Claims 6-9, 11 and 42 all depend either directly or indirectly from claim 1 and contain additional recitations that further define the present invention over Higgins. Hence, these claims are presently patentable due to their dependency. Applicant reserves the right to address the related rejections stated in the Office Action including, but not limited to, the rationale for combining the cited references and any alleged inherent properties not specifically disclosed in the cited art, should that becomes necessary. Therefore, this

rejection has been overcome and should be withdrawn.

Claims 2-8, 12-18 and 21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mitzutani for the reason given in Paragraph 5 of the Office Action. Claims 2-8, 12-18 and 21 depend either directly or indirectly from claim 1, and as discussed above, amended claim 1 is patentable over Mitzutani. Therefore, claims 2-8, 12-18 and 21 are not rendered obvious by reference to Mitzutani, and this rejection should be withdrawn.

Claim 19 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Mitzutani in view of U.S. patent no. 6,319,593 to Kenmochi et al. (“Kenmochi”) for the reasons given in Paragraph 6 of the Office Action. Claim 19 depends from claim 1, and as discussed above amended claim 1 is patentable over Mitzutani. Therefore, claim 19 is patentable over Mitzutani in view of Kenmochi.

Claim 40 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Mitzutani for the reason given in Paragraph 7 of the Office Action. Claim 40 depends from claim 1, and as discussed above amended claim 1 is patentable over Mitzutani. Therefore, claim 40 is patentable over Mitzutani.

Claims 43-47 and 60-61 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mitzutani in view of U.S. patent no. 5,310,590 to Tocachek et al. (“Tocachek”) for the reasons given in Paragraph 8 of the Office Action. Claims 43-47 and 60-61 depend either directly or indirectly from claim 1, and as discussed above amended claim 1 is patentable over Mitzutani. Therefore, claims 43-47 and 60-61 are patentable over Mitzutani in view of Tocachek.

Claims 48-50 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mitzutani in view of U.S. patent no. 3,081,515 to Griswold et al. (“Griswold”) for the reason given in Paragraph 9 of the Office Action. Claims 48-50 depend either directly or indirectly from claim 1, and as discussed above amended claim 1 is patentable over Mitzutani. Therefore, claims 48-50 are patentable over Mitzutani in view of Griswold.

Claims 55-57 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mitzutani in view of U.S. patent no. 5,990,377 to Chen et al. (“Chen”) for the reasons given in Paragraph 10 of the Office Action. Claims 55-57 depend either directly or indirectly from claim 1, and as discussed above amended claim 1 is patentable over Mitzutani. Therefore, claims 55-57 are patentable over Mitzutani in view of Chen.

Claims 1-22 and 38-62 were provisionally rejected under the judicially created doctrine of

obviousness-type double patenting as being unpatentable over claims 41-54 of copending, parent Application No. 10/307,186 for the reasons given in paragraph 11 of the Office Action. The Examiner states that although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite a fibrous face layer with elevated and depressed areas with the depressed areas adhesively attached to the rest of the composite. Applicant is willing to execute and submit a Terminal Disclaimer to remove this rejection, when the first of these two cases is allowed and the claims remain substantially the same.

Applicant appreciates the withdrawal of the provisionally obviousness-type double patenting rejection in view of co-pending application 10/611,769 since the '769 application is directed to a materially different invention.

Applicant submits that all claims are now in condition for allowance, early notice of which is respectfully requested. Since claim 1 is presently allowable and remains generic to withdrawn claims 23-37, consideration of the withdrawn claims is earnestly requested.

A two-month extension fee is due with this filing. No other fees are believed due for the submission of this amendment. Should any additional fees in fact be due, please charge such fees to Deposit Account No. 50-1980. If additional fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such extension is requested and should also be charged to said Deposit Account.

Respectfully Submitted,

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